IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 23036 of 2004

Between:

Devineni Rajasekhar @ Nehru S/o Rama Krishna Vara

Prasad , R/o. Ashok Gardens Gunadala, Vijayawada

..... PETITIONER

AND

1 State of Andhra Pradesh, rep by Secretary, Department of

Home, A.P. Secretariat, Hyderabad
2 The Commissioner of Police, Vijayawada
3 The Deputy Commissioner of Police, Vijayawada
4 The Station House Officer, Law and Order, Patamata Police

Station, Vijayawada

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Mandmaus declaring the action of the respondents in continuing the rowdy sheet opened on 26-07-1996 for being illegal, arbitrary, against the Police standing order 742 and unconstitutional and consequently quash the rowdy sheet dated 26-09-1996 of patamata Police Station, Vijayawada, Krishna District.

Counsel for the Petitioner:MR.B.ADINARAYANA RAO

Counsel for the Respondent No.: GP FOR HOME

The Court at the stage of admission made the following :

ORDER:

The petitioner states that he has been participating in several movements eversince his student days and thereafter, joined active politics. He states that he was bound over in three cases in the years 1975,1977 and 1979 and as a follow up, a rowdy sheet was opened against him. The same is said to have been closed, in the year 1995, on his having been inducted into the Ministry of the State.

A rowdy sheet was opened against the petitioner, once again, on 26.09.1996 by the Assistant Commissioner of Police, Vijayawada. Petitioner has referred to various instances of political turmoil in the State and submits that the opening the rowdy sheet against him, is politically motivated. He ultimately seeks a direction to the respondents, to discontinue the rowdy sheet opened against him. Petitioner states that as of now, no cases are pending against him.

On behalf of the respondents, a counter affidavit is filed. It is stated that the necessity to open the rowdy sheet or to continue the same arose on account of the involvement of the petitioner in several cases. It is further stated that though no specific cases, as such, are pending against the petitioner, it has come to the notice of the respondents that the petitioner is using his muscle power to settle several disputes and that there is his indirect involvement in Crime Nos. 444 of 2004 on the file of P.S.Machavaram and 248 of 2004 on the file of the P.S.Suryaraopet.

Sri B.Adinarayana Rao, learned counsel for the petitioner submits that the opening

of rowdy sheet against the petitioner in 1996 and continuing the same thereafter, is politically motivated and contrary to the Police Standing Order No.742. He contends that no cases under the relevant provisions, which warrant opening of rowdy sheets, are pending against the petitioner. He submits that as a responsible Member of the Legislative Assembly, the petitioner is maintaining good conduct and leading dignified life. Placing reliance upon the judgment of this Court in ***Baber Siddiqui v. Commissioner of Police, Hyderabad,*** learned counsel urges that the continuance of the rowdy sheet against the petitioner is no longer warranted.

Learned Government Pleader for Home, on the other hand, submits that the opening of rowdy sheet against the petitioner became necessary on account of his involvement in several criminal acts. He contends that the continuance of the same became necessary in view of the recurring involvement of the petitioner in various unlawful activities.

From the pleadings before this Court, it is evident that the petitioner was elected to the Legislative Assembly more than once and at one time, he functioned as a Minister also. It is true that in certain areas, having regard to the composition of the society and the problems that prevail or arise from time to time, political activists are exposed or driven to certain situations, inviting registration of cases etc. Elected representatives constitute the bedrock and foundation of democracy. The maturity of an active politician is reflected, in ensuring that his activities do not give rise to criminal complaints, particularly, those involving serious crimes. The reason is that a person, who is supposed to lead the constuency or his followers, has to remain a model to be emulated by others. Any lapse in this regard is likely to weaken the very system. This Court is of the view that having regard to the place occupied by the petitioner in the society, he ought to have been more careful and should have avoided the situations warranting opening of rowdy sheets. It is hoped that the petitioner does not give any scope for such an event in the future.

Coming to the merits of the matter, it is evident that as of now, there are no cases pending against the petitioner, which warrant pendency or continuance of rowdy sheets. In ***Baber Siddiqui***'s case, this Court analysed the entire law on the subject

and held that opening of a rowdy sheet has its own adverse affect on the dignity and respect of an individual and it cannot be resorted to, as a matter of course. It was held that if a person against whom a rowdy sheet was opened, maintained good conduct and there did not emanate any complaint for a fairly long time, the rowdy sheet ought to be discontinued. Reference was made to the various provisions of the Code of Criminal Procedure and the City Police Act.

In the counter affidavit, reference was made to two Crimes of the year 2004. A specific query was put to the learned Government Pleader as to whether the petitioner was named in those cases or whether there is his involvement, directly, or indirectly. In all fairness, learned Government Pleader, on instructions, submitted that there is no involvement of the petitioner in the said cases. Therefore, whatever may have been the justification in opening the rowdy sheet in the year 1996, against the petitioner, there does not exist any basis to continue the same at this stage.

Hence, this writ petition is allowed and the respondents are directed to close the rowdy sheet opened against the petitioner. It is, however, made clear that in case the petitioner brings about any situation warranting the opening of a rowdy sheet once again, it shall be open to the respondents to take action, in accordance with law. There shall be no order as to costs.

_____

02.02.2005

NOTE: LR copy to be marked

B/o

Jsu

To

One Fair copy to the Hon'ble Mr Justice L.Narasimha Reddy (for his lordship's kind perusal)

1 The Secretary,

State of Andhra Pradesh,

Department of Home, A.P. Secretariat, Hyderabad

2 The Commissioner of Police, Vijayawada

3 The Deputy Commissioner of Police, Vijayawada
4 The Station House Officer, Law and Order, Patamata Police

Station, Vijayawada

5 2 CCs to the G.P. for Home, High Court Buildings,

Hyderabad. (OUT)

6 8 LR copies.

7 The Union Secretary, Union of India, Ministry of law, Justice and Company Affairs, New Delhi.

8 The Secretary, Advocates Association Library, High Court

Buildings, Hyderabad.

9 2 CD copies.